

THE
IUSTICE
OF THE
ARMY
Against Evill-Doers
VINDICATED:

BEING
A brief Narration of the Court-Martials
proceedings against
{ ARNOLD,
TOMSON, and
LOCKYER,
with the Causes and Grounds thereof.

By which the impartiall Reader may plainly judge, how
hardly and unchristianly these men deale with the Army, to call that Ar-
bitrary, Tyrannicall, Barbarous Murder. In them; which they could
not omit without eminent neglect of their duty, and apparant
danger of the most desperate events to the Parliament,
Kingdome, and Army, that can be imagined.

*He that is first in his own cause, seemeth just, but his Neigh-
bour cometh and searcheth him. Prov. 18.9.*

They are all grievous revolters, walking with slanders. Jer. 6.28

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Christian Reader ;

I Should not have troubled my self with Writing, nor You with Reading this following Discourse, had it not been for their sakes, who ignorantly without any malicious intent, speake evill of things they know not: This being a time, wherein this way of Controverting things by printing, is become one of the greatest vanities; but considering how all manner of Evill in the World, hath clothed it self with Impudence, and more especially that Spirit which rageth at this time in this Kingdom, against all persons, and things that doe not bowe before it; I could not any longer, finding all other silent in this businesse, forbear the vindication of Truth and Iustice, against the clamors of men, at the just and favourable proceedings of the Court-martiall, in the following cases.

And this I could not have forborn so long, had it not been out of tenderneesse to those things which these rayling revilers have pretended to, who have dealt with the Army and their friends, as the most barbarous of their Enemies in some Garisons, have done in time of War, in detaining some persons, whom they Judged were highly esteemed of by them, in their Custody, to set in places of most danger, to hinder them from assaulting, this is the cheifest use, these men have made of the

words Iustice, Righteousnesse, Liberty, and Freedom, &c. to place them, in the Front spice of their lies and slanders, that none might kill the latter, without wounding the former, and if I have in any thing Interfer'd in this Discourse, against those good things; charge it upon my weaknesse, not upon my will, and the reason why, I only give you the Relation of these three, and not of those other since Executed for this last mutiny, is;

First, because the misrepresenting of the Armies proceedings against these first, have been made use of to fit the Soldiers for, and to stirre them up unto this last.

Secondly, because I expect it will be done by some other hand, more able then my selfe, to observe and relate it.

Thirdly, because I have not mett with any such clamors and misrepresentations of the latter, as against the former, which if I should, I might well forbear answer- ing, there having been some persons of Eminent integrity and ability, insnared in the businesse, whom God hath made fully sensible of their evill therein, and will therefor be most fitt and able, to give a representation thereof; I referre thee to what followes, and shall rest thine, in the cause of Truth and Justice,

R. L.

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*The Justice of the Army against will
doers vindicated.*

HOW tender the ruling part of the *Army* hath been in taking away life by *Martiall-law*: Is so notorious, it needeth not my testimony; there being not executed to my best remembrance, above five or six, since the Generall had his Commission, besides these *Mutineers*.

And for the first of these, *viz.* *Arnoll*, who was shot to death at the *Randevouze* neer *Hartford*, I shall refer you to the *Narration* of Captain *Bray*, delivered in writing to the Generall, and Councell, and subscribed by him, he being then an Officer of the same Regiment, and an Eye-witnes of all their miscarriages and out-rages; the substance whereof is, as followeth.

The Regiment being ordered to march to *New-castle*, when they came at *St. Albans*, had the paper called *the case of the Army* read unto them; upon which they resolved unanimously not to march, saying, it was contrary to their Ingagement, to be devided, &c.

The next morning, according to the Orders I had received, I caused the Drums to beat, &c. but few or none would come to their Collours, but they flocked about me, and told me, they were resolved not to march; whereupon I used all the Arguments of perswasion that I could, as many witnesses can testifie, &c: But it would not availe, they generally and unanimously seized upon the Collours, and set them in the Waggon, and set a strong guard upon them, &c.

At a Councell of *Warr* held at *Hockley*, I gave my Vote for their marching, it presenting it self, reasonable to me also, &c. I returned from the Councell of *Warr*, and told them I had received Orders to march, and the reasons thereof, and gave as many Arguments as I could to perswade them, but they combined and consulted together what to do, murmuring among themselves, &c.

and that night they came furiously into my Quarter, and demanded the Colours of me, but I denied them my Colours, telling them that it was most reasonable, the Colours should remain in my Custody, &c. : But they told me, they could not believe any of their Officers; nay, that they could not believe their own fathers, &c. So they went into the Chamber, and fetched the Colours, and set a strong guard over them at the Waggon, &c.

And when I came to *Olney*, &c. they all determined not to march further; yet the next morning I commanded the Drums to beat, intending to march according to my Orders, &c. but the Companies came together, and unanimously resolved not to march, though I propounded unto them all the Arguments of obedience and reason that I could; professing, that though I was a friend, and ever would be, God willing, to all just desires, resolutions, and mutuall ingagements, yet I was an enemy to irregularity. Whereupon they were suspicious of me, that I was an enemy to justice, and the liberty and freedome of the people.

Not long after, the same day, came more Colours from *Norhamptonshire*, which made them more and more exorable; and by my pressing, I received an affront by a Cavalier, &c. who swore by the Name of God, they must not believe any of their Officers, and that they must fight against *Independents*, &c. Whereupon I fearing a designe destructive to the Army, General and Kingdome, I told them the case of the Army stated, came from such hands who were resolved enemies to such persons, &c. so that I was bound in judgement and conscience to the Nation, and to the Generals just authority, to continue with them in this distemper, to keep off that unjust designe which I feare persons did endeavour to carry on, whom God hath in some measure discovered, and will more in due time, &c.

Whereupon they marched back, according to their own determinations, to *Dunstable*, many of the Horse also having been among them full of distempers, &c. and there they received a Letter, the substance whereof was, that they should stand (as I remember) to their honest ingagements for Souldiers rights, and *Englands freedoms*; and the party that brought the Letter to them, told them, the General, and Lieutenant General would

not oppose them, though they were not satisfied in the way yet: and these expressions made the Souldiers more and more exorable.

After that, the Lieutenant Colonell and Major came to *Dunstable*, and brought another Order from the Generall, and read it to them, but could not prevaile, &c. But the Officers voted, that some of the Captaines, with my selfe, should goe through their Quarters with Orders for them to march into *Buckinghamshire*. But when we came to *Luton*, we heard the Souldiers had a Randevouz off and from themselves.

The said Officers went to Captain *Talhursts* quarter, and found a Guard set on him and his money, by his own men, and there the said Captaines wounded or killed one or two men, and one Lieutenant was also wounded.

So I parted from the Captaines (after we had procured a Chirurgion) and told them, I would go to the Randevouz though I lost my own life, (as it was probable enough as they confest) and give them my Orders received of the Major; and accordingly I came to *Dunstable*, and read my Orders to my owne men in the Town, the Randevouz being broken up, and gave them all the Arguments that was in me to march; but they told me their generall determination at the Randevouz was, that they would march to *Readborne* to a Randevouz; and so they did accordingly, without my consent or approbation, &c. as many witnessses can testifie: and that night before they went to *St. Albanes*, they set a Guard upon me and my Colours, &c. and so they marched to *S. Albanes*, and lodged the Colours of the whole Regiment together, and so they went towards *Hartford* the next day.

I receiving a Letter from the Generall upon our march, commanding me and the Souldiers to stay where that Letter should come to us. I told the Messenger, I did not continue with them as commanding them, but to hinder an unjust influence, or the enemies designe upon them, and to keep as much as I could, the Generals authority among them, which I was and am tender of. And I communicated my Orders to the Souldiers, and they all cryed out, they could not goe to that Randevouz, and that they were betraid, if they did. Whereupon the Souldiers petitioned the Generall, who sent me a particular Order to march to *Ware Randevouz*,

William Bray.

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THis Relation of Captain *Bray* I rather chuse to make use of, then any of the other testimony, because from him may be expected a more favourable relation then from any other, himselfe being very much suspected to be an abetter, or at least a favourer of the Mutiny: these things following being testified upon oath by *Henry Lilburne, John Topping, William Dod, Rowland Stewart, William Hallowes, James Hart, Ethelburt Morgan, and Gabriel Erwood.* Most of whom were then considerable Officers in the same Regiment.

That at a Court of Warre held at *Richmond*, after the Generall had ordered the Regiment to march to *Newcastle*, he said that it was not fit for the Regiment to march thither, but to stay neere *London*, untill the Parliament had confirmed the proposals of the Army, and the freedome of the people.

And that when the Regiment did march, the Colonels Company mutinying at *St. Albanes*, Captaine *Bray* did say that it were better for the Regiment to march back, then to goe forward, and that if the Colonels Company would march back, he would march in the head of them.

And when the Company did return back in a mutiny, he did march back in the head of them, and issued out Warrants under his own hand to the Countrey, to bring in Horses to draw the Waggon back, when they should have marched forward.

And the said Captaine *Bray* in the height of the mutiny at *Dunstable*, did speake to this purpose, That the Parliament were our profest enemies, and that there was no visible Authority in the Kingdome but the Generall; and that the Generall was not infallible: His Lieutenant Colonell desiring to know of him, whether he would goe to the head of his Company, and acquaint them, what orders he had received from the Generall, he answered, I shall not: and gave it as his opinion, That the way to get the Regiment to march, was to send a faire letter to the Agents of the five Regiments of Horse, and to get an Order from them.

Notwithstanding these things, wick much more of the same nature, was proved against him, yet he pretending he stayed with them, only to prevent the influence of others upon them, as in his foregoing Narrative, the Court Martiall was willing to take the best sense of him they could, & did not proceed against him upon

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this charge, which they would hardly have done, if they had been so much inclined to arbitrary tyranny, as himsele and others have endeavoured to represent them.

For if the circumstances of this mutiny be impartially considered, what a distemper it wrought in the whole Army, necessitating a generall Randevouz to satisfie the Souldiers, &c.

What opportunities it gave to evil minded men to put both Army and Kingdome into a flame. Nay, how industrious and active the Cavaliers agents were on the one hand, and our discontented friends on the other (who have alwayes pretended better things then their desperate & bloody endeavours at that time, and often since doe demonstrate they intend) there is not any man that ever knew in the least measure, what belonged to the government and discipline of an Army, or of any other well governed Society, but will rather wonder, that every tenth man of them did not suffer, then think such a storm could be alayed with the executing of one man, though they should understand no more of the Story, then what hath been related by Captain *Bray*.

Who in his Narrative takes no notice of their insolent barbarous carriage towards their Officers and the Countrey, which was so horribly wicked and barbarous, that all the Felons which have suffered at *Tyburn* these twelve moneths, are not really guilty of so many horrid outrages, as they were in that time toward the Countrey and their Officers, the particulars thereof are too tedious to relate. Not any of their Officers except Capitaine *Bray*, the Quarter-master, and one more, as I remember, durst come neare them, some of them being pursued many miles by their owne Souldiers, who swore as they pursued them, they would be revenged on them, and did violently take away divers Horses in the Countrey in this pursuit of their Officers, pretending their Officers were run away with their money, when they were forced to run to save their lives, there being one Lieutenant dangerously wounded by them. And at that time when this man, viz. *Arnoll*, was executed, there were divers other Officers could not be heard of, and the rest did feare, that they were murdered and made away by their Souldiers.

And they did not exercise their rage and cruelty towards such

in the Countrey, as were enemies to the cause, they were raised for, and paid to maintain, but on the contrary where ever they came in their march, inquired if there were any Round-heads in that Towne, and against them did they exercise their cruelty. Some honest men at St. *Albanes, &c.* informed me, that they were never so used by the Cavaliers as they used them, and did affirme, that if Captain *Bray* and the Quarter-master had not been with them, who had a little influence upon them, they had been certainly plundered, if not murdered; many of whom have been, and still are, as faithfull to the interest of the people, as the highest clamourer against this piece of necessitated justice.

In this insolent distemper did they march to the Randevouz, where they were drawn up by their Captaine Lieutenant *Bray*, and there stood with white papers in their Hats, as if they had been going to ingage with an enemy. When the Generall had viewed the rest of the Army, he came to them, attended with his Officers, who commanded them to pull their papers out of their Hats, but they refused. Whereupon some Officers rode in among them, and plucked out the papers of some that were most insolent, and then the rest began to submit.

By this time some of their own scattered Officers were gotten up to the Randevouz, of whom the Generall and Officers enquired, who among them had been the principall Leaders and actors in this mutiny, and commanded them as they could espy them, to single them out, and accordingly they drew out as I remember, eight or nine. A Court-martiall being called in the place, they were all found notoriously guilty of particular facts in this businesse, and were there adjudged by the Lawes and Ordinances of warre to dye; and accordingly sentence of death was pronounced upon them, and afterward referred to a Lot, all pardoned but one, on whom the Lot should fall, which was this *Arnoll*, who was presently shot to death in the place. And I well remember some of the Officers of that Regiment, did much rejoyce in the just hand of God, directing the Lot upon that man, whom they had observed to be more notoriously guilty then any other in this businesse. *The Lot is cast into the lap, but the whole disposing thereof is of the Lord, Pro. 16. 33.*

The next person for whom the Army hath been clamoured against,

gainst, for their proceedings with, is *William Thomson*, a Corporal in Captain *Pichforts* Troop, in Colonell *Whaleys* Regiment, who was questioned at a Court-martiall in the Regiment, for *drunkenesse*, *gaming*, and *quarrelling*, The story followeth : The said *Thomson* being at a Tavern in *Colebrooke*, after some time spent in drinking & carousing, he fell into play for money; finding himself in danger to lose, he began to quarrell with the man he played with, who perceiving his designe, took the stakes into his hand : Upon which Mr. *Thomson* laid violent hands upon the Gentleman, tore him by the haire, and by force possesse himselfe of the stakes. In the mean while the Gentlewoman of the House being putting her husband to bed, hearing a great noise of quarrelling below, came running down among them, and endeavoured to part them : upon which *Thomson* threw her down, kickt her on the face, and most grossly beat and abused the servants for striving to part them. And he being not able to have his will on them himselfe, goeth away, and not long after returned againe with some other of his companions, and in the dead time of the night forced into the house with his drawne sword, wounded three or foure of the servants, laid felony to the charge of the Mistresse of the House, and two others, for robbing him of 20. l. of gold and silver, tooke one man away prisoner, viz. *William Mause*, threatening him to tye him neck and heels together, if he would not confesse his money; notwithstanding by his owne confession afterwards he lost none. All which is testified at large against him by Mr. *Miles* of *Colebrook*, and his wife, *Thomas Winall*, and *George Weare*, and most of it confest by himselfe.

Upon debate of the premises, he was adjudged by the Councell of warre, to be cashiered at the head of the Regiment the next Randevouz : which sentence he would not submit unto, but endeavoured to get the Souldiers of the Regiment to stand by him in this quarrell : from which irregular mutinous carriages proceeded that which followeth.

Upon the 28. of *October*, the Regiment had a Randevouz upon *Odiam Heath* in the County of *Surrey*, the said *Thomson* still abiding with the Regiment, notwithstanding hee was cashiered six weekes before, and had received severall orders to depart the Quarters.

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The Major of the Regiment did there endeavour according to the judgement of the Court, actually to cashier him at the head of the Regiment, which he in a peremptory mutinous manner refused to submit unto. Upon which there was a new charge exhibited against him, consisting of severall Articles, the heads whereof are as followeth.

First, that the said *Thomson* at or about the tenth of *September*, 1647. did assume the title of a Souldier in the Army, under the command of his Excellency Sir *Thomas Fairfax*, and came to the Regiment of Colonell *Fleetwood*, being at a *Randevouz*, and there spake to and in the hearing of all the Souldiers, severall seditious and mutinous words, and delivered severall seditious papers, some written, others printed.

Secondly, he endeavoured to make mutiny in the said Regiment, by pretending he had brought a letter from the Agents of 35. Regiments, and said he came to the Souldiers, and not to the Officers, affirming there were accusations against the Officers of the Army, labouring thereby to make a division betweene the Officers and the Souldiers, pressing the Souldiers to subscribe his papers. All which were proved upon oath by Captain *Griffith Loyd*, Captain *Gilmond Taylor*, and *Thomas Scot Trooper*, all in Col: *Fleetwoods* Regiment.

Thirdly, that upon the 20. of *October* he endeavoured to make a mutiny in Colonell *Whallies* Regiment, as followeth, The said *Thomson* being adjudged by a Court-Martiall to be cashiered at the head of the Regiment, Major *Swallow*, the Major of that Regiment, required him to dismount at the head of the Regiment; but the said *Thomson* refused, charging the Regiments Council of injustice; and appealed to the Souldiers of the Regiment for justice, pretending it was against their ingagement, to suffer any Souldier to bee cashiered without satisfaction, with many more words to this purpose. All which is proved against him by the depositions of Colonell *Whalley*, Major *Swallow*, Captain *Evanson*, Captain *Dale*, Cornet *Steward*, and *Anthony Lam*: All which mutinous carriages, words and actions, comes within the letter, and equitable sense of the eighth Article of duties towards Superiors and Commanders; *None shall utter any words of sedition, uproare or mutiny, upon pain of death.*

Fourthly, the said *Thomson*, after he was cashiered and discharged the Regiment by his Major and Captain, did still continue in the Quarters of the said Troop for above the space of ten dayes. In all which time hee was not inrolled in any Troop, or Company: All which is proved against him by Capt. *Floyd*, Capt. *Taylor*, Capt. *Pickfort*, *Benjamin Yates*, and *Thomas Scot*, which brings him within the eleventh Article of Duties in the Camp and Garrison.

No man that carrieth Arms, and pretends to be a Souldier, shall remain three dayes in the Army, and not be inrolled in some Company, upon pain of death.

This charge being thus proved against him, he was apprehended & brought prisoner to *Winsor*; from whence contrary to his ingagement to the Martiall generall, he made his escape, and was afterward again apprehended at *Westminster*, and sent prisoner to *White-Hall*, and adjudged guilty of his charge by a Court-Martiall, & had the sentence of death pronounced against him according to Law. After which the Generall inclined to mercy towards him, and reprieved him from present execution, but continued him in prison. But the Army being marched from *London*, and he left at *White-Hall* in the charge of a Martials man, did there make his escape the second time. Since which time he gathered together a company of men in Armes, whom hee quartered upon the Countrey, calling them his Troop, and they him Captain; with whom hee marched to a Gentlemans house in *Essex*, who had a suit depending in Law with another about a Title in land, whom he by force & violence dispossessed, taking his Tenants and Servants prisoners, driving them before him in miery way in the night, pricking them on with his swords point in a most barbarous and cruell manner. For which he was brought prisoner to *White-Hall*, sent by the Court-Martiall to the civill Magistrate, who tooke Bayle for his appearance at the Assizes. He no sooner had his liberty, but without cause or provocation, stabd one Mr. *Hayden* with a Dagger, of which wounds he is since dead. And within a few dayes after, he was again taken on the Road, with a party of other men, whom he had deluded into his evill courses; and had found about him a great black Periwig, and a false Beard, which they brought back againe with him to *White Hall*. From whence he was sent in safe custody again to the civill Magistrate, bailed by Lieut. Coll. *Lilburne* out of prison. And what his actions & end hath been since, is so notorious, I shall not trouble you with the relation of it here. *The right couseses of the perfeet shall direct his way, but the wicked shall fall by his owne wickednes*, Pro. 11. 5.

The third person of this number that hath been proceeded against for mutiny, and for whom so many are offended, is *Robert Lockyer*, a man unknown to me untill the time of his imprisonment: since which time I have inquired of him, and have heard a very ill report from the mouthes of such, who spake it with no delight, and yet had cause and opportunity to inquire into, and observe his demeanour: but there being a relation of the proceedings of the businesse against him, with the cause thereof, already printed, I shall not trouble you with any thing of that again; only I must observe to you his unstable demeanor in the time of his sufferings, while he was before the Council, the witnesses giving their testimonies against him *viva voce*, he could not deny any thing of that which was laid to his charge, but did endeavour to evade it, with such criticall crosse interrogatories to the witnesses, as discovered more of wit and subtilty, then of godlinesse or integrity in him.

The next morning after he was sentenced, he seemed to be very sensible of his miscarriage, and sorry for his fault, and did desire directions, what should be the best way for him to make his mind known to the Generall, &c. And there being then a Petition drawn, which the other five that were to cast lots, had subscribed, he desired to set his hand to it, and joyn with them in it; he was advised to be carefull what he did, and was told, that it was not a time to dissemble neither with God nor Man, and that the words of the petition which he desired to subscribe, and his former discourse, did not agree. Upon which, having heard the petition read severall times to him, he set his hand to it, in which he hath these expressions, *That the Generall would be pleased, out of his wonted clemency and goodnesse, to passe by that unwise and unlawful action of theirs, and give them their lives for a prey; and we do vow and protest before the Almighty God, that we are heartily sorry for our faults, and doe promise, as in his all-seeing eye, never to doe the like action again, nor suffer it to be done, if we can hinder it with our lives.*

Then within a few houres after, there being a warrant signed for his execution, he changed his mind again, as if he had not been the same man, and began to speak evill of his Judges, and the Law by which he was judged, &c. and to justifie himself as an innocent sufferer in a good cause, &c. and so continued untill he died.

Now that which I should desire the Reader to observe in this brief narrative of these three mens faults and punishments, is this: First, what ground there is for these great clamours against the Army, for
murther,

murther, and barbarous illegall proceeding? &c. Have they not all had faire and legall trials, by that authority, which they voluntarily placed themselves under, and submitted to, and that with so much lenity and tenderneſſe, as the moſt able of thoſe, who have taken Satans work out of his hand, *to be the accuſers of their brethren*, are not able to produce one preſident of the like. Had the ſame faults been committed by ſuch numbers, tending to ſuch an apparant hazard of publick ruine in any Army, that ever was in Chriſtendome before this, the ſuffering of every tenth man would hardly have excuſed them; and yet here was but one man of one thouſand in the firſt, and one out of three or fourſcore in the laſt; and the other, though notoriously guilty, yet ſpared: and yet here muſt be murther and barbarouneſſe and tyranny, laid to the charge of thoſe, who deſired nothing leſſe then their deaths, if they could have answered their duty to God and Man, in ſparing them their lives. *Then ſtood up Phineas and executed judgement, and ſo the plague was ſtayed, and that was accounted unto him for rightcouſneſſe unto all generations,* Pſalm 106. 30.

The ſecond thing I deſire may be minded in the narration is, what ground the great pretenders of *Englands liberties* can have to think, their good cauſe is either intereſted in, or prejudiced by, the puniſhment of theſe evill actions, unleſſe that which was puniſhed in theſe men, be the liberty they ſo much contend for, which muſt needs be a liberty in particulars to the prejudice of the generall.

And for Mr. *Lockyer*, whom they are pleaſed to canonize a Martyr ſince his death, there is leſſe to be ſaid for him upon that conſideration, then for either of the other two: for he and thoſe which muſtined with him, did not ſo much as pretend common right and freedom, nor had the leaſt colour of any one grievance lay upon them, except their not having their pay before it was either received by their Officers for them, or due unto them, which is a new grievance never heard on before in an Army. And this is acknowledged by the Author of the ſecond book intituled, *The Armies Martyr*, page 6. as followeth, *Many perſons that formerly knew him, came to viſit him, much lamenting his ſad condition, being condemned for nothing, but for asking his pay, and indeed that was the thing which moſt troubled him, that ſo ſmall a thing as contending for his pay, ſhould give his enemies occaſion to take away his life, which as he often ſaid, had it been for the freedom and liberties of this Nation, it would have added much to his comfort, &c. For he knew it was malice that prevailed over him, not juſtice.*

justice. I cannot passe by these words, without observing something from them : His friends lamentation over him is, that he should be condemned for nothing but asking his pay, and his own words are, *For contending for his pay.* But it was for neither of these that hee suffered, for they are neither of them faults.

A Souldier may lawfully ask his pay of his Officer, and if he deny it, contend with him for it ; nay, if he can prove his Officer have defrauded him, or unjustly detained from him one dayes pay, he may have him punished for it, and that with the losse of his place, by an expresse Article of warre. And I challenge any Souldier of the whole Army, or other, to produce one instance, that ever they appealed to the Generall, or Court-Martiall, against any Officer, and had not a speedy and legall tryall : and if it were usefull in this place, I could instance in many hundreds of cases, where the Souldier hath been righted against the Officer, and such extraordinary reparations given, as no Court in *England* would doe between man and man. Nay, in many cases, where the Souldier hath causelessly and wrongfully prosecuted his Officer at a Court-Martiall, and yet hath not had the least reproof from the Court, so tender have they been of discouraging the Souldiers in this particular. But if a Souldier shall demand his pay of his Officer before it be due, or when it is due, in a peremptory mutinous way, it is punishable according to the manner and measure of the fact. For it is possible, a Souldier may demand his pay in a peremptory insolent way of his Officer, and yet not deserve much punishment : As for instance, ten, or twenty, or more, may goe together to their Officer, and demand their pay of him, if it be due ; and admit they will not be satisfied with a reasonable answer, but shall there give him provoking, reviling, nay threatening language, no man will say this is commendable, but blameable, if not punishable ; and on the other hand, if no worse consequence attend it, then that Officer and his Souldiers falling out, no man will say, this deserves death. Nay further, if Souldiers shall demand their pay of their Officers upon a march, or at a *Randevouz*, or just when they are commanded upon service, in the manner aforesaid, which is worse then the other, yet if they do not refuse to march, or doe their duty when commanded, though it come within the Article of warre, it is the more excusable.

But the case of Mr. *Lockyen* and the rest of his associates, are much different from all these cases : For first, they had no pay due, they having been better paid since they came last into *London*, then ever they

they were since a Troop, being themselves before hand with the rest of the regiment, & the regiment aforehand with most of the Army.

And further, they did not only demand their pay in manner afore-said before it was due unto them, but refused to march, disobeyed the commands of their Officers, while they unjustly quarrell for their wages before they had earned it, they refuse to do their work, for which they were paid. and did not onely disobey their Officers commands, but resist them in the doing of their duty, forcibly seize upon the Colours, detain them from their Officers when demanded; and this not done in a sudden hurly-burly, or an heat of blood, but with deliberation, continuing in this posture neere two dayes and nights, gathered themselves together into a strong house, and there kept it against their Officers. When their Colonell and Officers came in love and pitie towards them, perswading them by reason to consider with themselves, what sad events must follow, if they necessitated them to use extremity; putting them in mind, how comfortably they had ventured their lives together against the common enemy, promising them all they either did or could desire, if they would be ruled, and march after the Regiment. But all this would not prevail, Mr. *Lockyer* with some other of their Leaders, furnished them with arguments to trample upon, and insult over clemency. For when their Officers, (I mean their Colonell and Major, and 2 or 3 Captains of the Regiment) had granted them all that they could think to ask, they then told them in plain *English*, they had been too long fed with words, they had trusted the so often, that they would trust them no more. And all the while they thus capitulated with their Officers, they stood drawn up in Galleries and Windows with their Swords and Pistols, as if they had been treating with an enemy, and did not submit, untill the yard was a clearing, to make way for the Horse and Foot to force them.

These things considered, with the circumstances of time and place, if the Lord had not wonderfully prevented it, by awing the hearts of a discontented popular multitude, it might have proved as bloody a day to that great Citie, and more fatall to the Kingdomes interest, then ever yet *England* saw, or thought of.

The next thing observed out of those words quoted of his, is this, *Which as he often said, had it been for the freedome and liberty of the Nation, it would have added much to his comfort.*

Truly I cannot blame him, *If ye suffer for righteousness sake, happy are you, but let none of you suffer as an evill doer, or a bawdy body, &c.*

I hope there was not a man that had a hand in punishing him for his miscarriage, but would rather have suffered with him in so good a cause; but it is cleare out of his own mouth, his conscience told him, he did not suffer for those things: and if not, how come the great pretenders for *Englands* liberties and freedome, to glory so much in his suffering? Is it an honour for a man to suffer as an evill doer, because he is a good man, or rather the more shame? *He that knowes the fathers will, and doth it not, shall be beaten with many stripes.* The more able and rationally principled the man was to promote good things, the more he was to be pitied and lamented, but the lesse to be gloried in.

But this kind of spirit at the latter end of the first warre, raged in our froward discontented brethren of the Presbytery, they having a jealousie, though without cause, that the ruling part of the Army discountenanced men of their judgement and principles meerly for being such, they presently began to be very inquisitive into the Armys proceedings against offenders. After which the Army could not proceed against any Officer for the vilest offence, that could be committed, were it plundering the Countrey, cheating the State, or his Souldiers, drunkenness, swearing, &c. or for being countenancers of such persons, or things, but presently they were said to be persecuting Presbyterians: and so now, let Souldiers commit never so great offences, as *Arnoll* aforesaid, and afterward stick a paper in his hat with this motto, *Souldiers rights, and Englands freedom* writ upon it, and that must be like a Popes Bull to pardon all their faults.

And so for *Thomson*, let him drink, and game, and quarrell, to the scandall of the Army, beat, fright, wound the countrey people, hale them out of their own houses captives, like dogs through the dirt in the night, for no other fault but endeavouring to keep the peace of their own houses. And after all this, pretend to common right and freedome, and then all proceedings against him must be barbarous and tyrannical, &c. Remember, *He that justifieth the wicked, and he that condemneth the just, are both an abomination to the Lord, Pro. 17. 13.*

The third thing I must needs take notice of in his own words afore quoted, is this, *For he knew it was malice that prevailed against him, and not justice.*

How little ground himselfe or any other had to think so, was not hid from themselves, and I desire it may be known unto others.

First, as I apprehended, the man was a stranger to all his Judges, not one before that time had ever seen him, so as to remember him,

if ever they had heard of him : for I observed it every time his name was taken notice of in the evidence , the whole Court desired to see which was that man , at least 3 or 4 times over , though he stood in their sight all the time ; and all the Officers of the said Regiment, frō the highest to the lowest, were desired to withdraw at the time of the debate, and came no more there. So in whose heart that malice should rest that overcame him, is left to bee judged. But as it fared with Cain after he had murdered his brother, *he thought every man that met him would murther him* ; so doth it with malicious evill-minded men, they think every man that opposeth them in their wickednes, beare hatred and malice towards them ; whereas I am confident, the Lord beares witnes to the consciences of this mans Judges, that if by sparing his life , they should have hazarded the ruine of none but themselves, they would have chose to have done it with joy, rather then have executed him. *But the integrity of the upright shall guide them, when the perversnes of transgressors shall destroy them.*

Obj. But grant you, the fact was never so foul, and the offenders never so guilty of it, yet the way of your proceedings against them, is illegall, you trying them by Martiall law in the time of peace, it being contrary to *Magna Charta*, and the *Petition of Right*, &c.

Ans. Truly, for *Magna Charta* & the *Petition of Right*, I never read more of them, then what I have seen printed by L. Col. Lilburn, &c. in their papers, in which I have observed a great deal of opposition to Martial Law in times of peace, as in *C. Brayes*, *Thomsons* & *Lockyers* case, yet I could never find it any way made good, that those things which were charged against *Strafford*, & others in that point, were for their proceedings against Souldiers under their immediate command and conduct, and for such actions as their being souldiers, made them more capable of committing , then in another capacity could have been. If so, I must confesse, I could never clear it up to my owne judgement, that those lawes in that particular, doe provide for the peoples weale, but for their woe : those lawes in that case, do neither provide for Souldiers rights, nor *Englands* freedome. As for instance, Would the Souldiers account it their right, to be liable to actions at the Common law for every triviall offence, which oftentimes their employments, as Souldiers, doth necessarily put them upon towards countrey-men, would their small pay inable them to attend the tedious trials at law, oftentimes far distant from their quarters and businesse, in chargeable Courts, where they are necessitated to plead by counsell? Or would they be willing to be liable to indictments at the Size and Sessions, and there enjoyned attendance for every suspicion

a country-man could have against him. For to be sure, if there were any mischief done by a man in a red coat, with a sword by his side, the next Souldier the hue and cry overtook in that habit, must needs be suspected, & there to be triable by twelve of the neighbourhood, where the offence is committed, though himself be never so much a stranger in those parts. And all the knowledge, the Jury could have of him, would be, that he was a Souldier, which would hardly procure him more favour then is allowed to vagrants in such cases.

Again, would the countrey-man account it his liberty to be liable to the injuries and violence of Souldiers, and have no other remedy against them then the common Law? What Bailly, or Officer, would undertake the serving of a Writ on a Souldier in an Army, for his ordinary fee? And in case some would, and the Souldiers should resist, and protect one another, and in a mutinous manner beat or abuse the Officer, the plaintiffe hath no remedy still, but the common Law; For it would be arbitrary tyranny in an Officer to exercise any power over the Souldier in times of peace, so much as to rebuke or punish him for neglect or disobedience; and what an Officer would signifie in an Army, or an Army in Kingdome thus disciplined and governed, I desire the prudent to consider, and what a multitude of such inconveniences, attended with many unsupportable evils and burthens, both to the Souldier and Countrey, may be enumerated, I leave to your consideration.

2. *Obj.* But if it be granted, that there is a necessity of Martial Law in an Army, yet why should it be so arbitrary and sharp? why are not punishments more proportionable to offences?

Ans. I could heartily with this objection might be answered by amending & correcting what is amiss in that kind, which hath often been desired and propounded to be done by the ruling part of the Army; only want of opportunity hath prevented it, yet I must say this in answer unto it; That if any Souldier in the Army, or other can produce one precedent, where the letter, or rigor of the Article hath been made use of against one man, when the equitable sense and just & favourable meaning of the Article hath not been included in the fact, there will be some ground for this objection to be made a present grievance; but I am confident of the contrary.

And further, if any man will bestow the reading of them over, which he may doe in an hours time, he shall see, that the sharpness of the Articles run wholly in the behalfe of the freedom and liberty of the people, and against the oppressions, violences and outrages of the Souldiers, which is the most comfortable and choyce freedom, that people can enjoy in time of war, or where an Army lies in time of peace.

Ye have wearied the Lord with your words, yet ye say, Wherein have we wearied him, when ye say, every one that doth evil is good in the sight of the Lord, and he is high in them, or where is the God of judgement? Mal. 2. 17.

The Lord is known by the judgements, which he executeth, the wicked is snared in the work of his own hands. Psal. 9. 16.

